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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 10/712,916 11/13/2003 YAMAP0398USD 2362 Hisaki Miyamoto EXAMINER 7590 43076 09/14/2005 MARK D. SARALINO (GENERAL) HARAN, JOHN T RENNER, OTTO, BOISSELLE & SKLAR, LLP ART UNIT PAPER NUMBER 1621 EUCLID AVENUE, NINETEENTH FLOOR

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DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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John T. Haran		10/712,916	MIYAMOTO ET AL.			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available used the provision of 37 CFR 11360, in no event, however, may reply be timely filled.  If NO period for reply a specified above, the mailman stability praided will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  Failur to reply within the sor or exceeded period for reply will, by station, cause the application is communication, even if simely filled, may reduce any seater plant in an aliquence. Sor J CFR 17-1801.    No period for reply a specified above, the mailman stability praided will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  Failur to reply within the sor occarded period for reply will, by station, cause the application occarding the office from the mailman state of this communication, even if simely filled, may reduce any seater plants are mailtained.    No period for reply a specified above, the mailman stability praided will apply and will expire six (6) MONTHS from the mailling date of this communication.    Pailur to reply within the sor covered period for reply will, by station, cause the application of communication is filled.   Pailur to reply (2) SIX (2)	Office Action Summary	Examiner	Art Unit			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  □ Extensions of time may be available under the protections of 37 CPR 1.13(d), is no were, however, may a reply be timely filled.  □ If No period for reply is pecified above, the maximum studies period will uppy and will assign \$2 (k) MONTH for the mailing date of this communication.  □ Failuse to reply within the set or extended period for reply will, by retailable, period will apply and will assign \$2 (k) MONTH for the mailing date of this communication.  □ Failuse to reply within the set or extended period for reply will, by retailable, period will apply and will assign \$2 (k) MONTH for the mailing date of this communication.  □ Failuse to reply within the set or extended period for reply will, by retailable, ease the application to become ABANDONED (35 U.S. £, 133).  Any tray the review by the Office and then the mailing date of this communication.  □ Failuse to reply within the set or extended period for reply will, by retails, ease the application to become ABANDONED (35 U.S. £, 133).  Any tray the review by the Office and the thin the mailing date of this communication.  □ This action is FINAL.  □ Dip This action is final the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  □ Dip This action is active the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  □ Dip This action is active the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  □ Dip This action is active the practice of the practi		John T. Haran	1733			
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1)⊠ Responsive to communication(s) filed on 29 March 2005.  2a)□ This action is FINAL. 2b)□ This action is non-final.  3)⊠ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)☑ Claim(s) 10-16 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)☑ Claim(s) 10-16 is/are allowed.  6)□ Claim(s) is/are objected to.  8)□ Claim(s) is/are objected to.  8)□ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)□ The precipitation is objected to by the Examiner.  10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheel(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)□ All b)□ Some * c)□ None of:  1.□ Certified copies of the priority documents have been received in Application No  3.□ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Altachment(e)  1)□ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3)□ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3)□ Information Disclosure Statement(s) (PTO-1449 or PTO/5808)  4)□ Moit of Informal Patent Application (PTO-152)	<ul> <li>WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>					
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a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  1. Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  2. Notice of Informal Patent Application (PTO-152)	Priority under 35 U.S.C. § 119					
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2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  Notice of Informal Patent Application (PTO-152)	Attachment(s)  1) Notice of References Cited (PTO-892)	4) Interview Summer	(PTO.413)			
· · · · · · · · · · · · · · · · · · ·	2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Paper No(s)/Mail Da 5) Notice of Informal P	ate			

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### **DETAILED ACTION**

#### Terminal Disclaimer

The terminal disclaimer filed on 3/29/05 disclaiming the terminal portion of any
patent granted on this application which would extend beyond the expiration date of
U.S. Patent 5,681,634 has been reviewed and is accepted. The terminal disclaimer has
been recorded.

#### Oath/Declaration

2. The new oath/declaration filed on 3/29/05 is proper and accepted.

### Requirement under 37 CFR 1.177(c)

3. Pursuant to MPEP 1450, Applicant is required to merge the claims of the suspended first reissue application with the allowable claims of the divisional reissue application into a single application, by placing all of the claims in one of the applications and expressly abandoning the other.

The following is the pertinent section of MPEP 1450:

Claims elected pursuant to a restriction requirement will receive a complete examination on the merits, while the non-elected claims (to any added invention(s)) will be held in abeyance in a withdrawn status, and will only be examined if filed in a divisional reissue application. If the reissue application containing only original unamended claims becomes allowable first (and no "error" under 35 U.S.C. 251 exists), further action in that reissue application will be suspended to await examination in the divisional reissue application(s) containing the added claims. >Multiple suspensions (usually six-month periods) may be necessary.< The Office will not \* >permit< claims >to issue< in a reissue application which >application< does not correct any error in the original patent. Once a divisional reissue application containing the added claims is examined and becomes allowable, \*\*>the examiner will issue a requirement under 37 CFR 1.177(c) for applicant to merge the claims of the suspended first reissue application with the allowable claims of the divisional reissue application into a single application, by placing all of the claims in one of the applications and expressly

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abandoning the other. The Office action making this requirement will set a two-month period for compliance with the requirement. If applicant fails to timely respond to the Office action, or otherwise refuses to comply with the requirement made, then the divisional reissue application (claiming the invention which was non-elected in the now-suspended first reissue application) will be passed to issue alone, since the claims of the divisional reissue application, by themselves, do correct an error in the original patent. Prosecution will be reopened in the suspended first reissue application, and a rejection based on a lack of error under 35 U.S.C. 251 will then be made. This rejection may be made final, since applicant is on notice of the consequences of not complying with the merger requirement. If the divisional reissue application becomes abandoned, prosecution will be reopened in the suspended first reissue application, and a rejection based on a lack of error under 35 U.S.C. 251 will then be made in the first reissue application. Since no error in the original patent is being corrected in the first reissue application, no reissue patent will issue.<

# Quayle

4. This application is in condition for allowance except for the following formal matters:

Pursuant to MPEP 1451, when multiple reissue applications are filed from a single patent, the specification of each must cross-reference the others.

The specification should be amended to as follows:

- - Notice: More than one reissue application has been filed for the reissue of Patent No. 6,263,939. The reissue application is application number 10/288,204, which is a reissue of Patent No. 6,263,939. -.
- 5. Prosecution on the merits is closed in accordance with the practice under *Ex* parte Quayle, 1935 C.D. 11, 453 O.G. 213.

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6. A shortened statutory period for reply to this action is set to expire **TWO** 

**MONTHS** from the mailing date of this letter.

# Allowable Subject Matter

- 7. Claims 10-16 are allowed.
- 8. The following is an examiner's statement of reasons for allowance:

The claims are allowable for the same reasons noted in 08/599,181.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John T. Haran whose telephone number is (571) 272-1217. The examiner can normally be reached on M-Th (8 - 5) and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

√ohn T. Haran Primary Examiner Art Unit 1733 Page 5